



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/EV/19/3381

Re: Property at 29 Summerhill Road, Aberdeen, AB15 6HJ (“the Property”)

Parties:

Mrs Iqra Ahmed, Glenwood, Den of Cults, Aberdeen, AB15 9SJ (“the Applicant”)

Mrs Shannon McDonald, 29 Summerhill Road, Aberdeen, AB15 6HJ (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order should be granted in favour of the Applicant

Background

1. By application received in the period between 22nd October and 6th December 2019, the Applicant sought an eviction order under Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The grounds on which the order was sought were grounds 10 and 11 of Schedule 3 of the Private Housing (Tenancies) Act 2016 (“the Act”). The Applicant provided copy tenancy agreement, rent schedule, email correspondence between the parties, photographs, bank statements, section 11 notice and copy Notice to Leave dated 14th September 2019 giving a notice period to 20th October 2019.
2. Intimation of the application and Case Management Discussion (“CMD”) had been made upon the Respondent at the Property by Sheriff Officers leaving papers on 7th January 2020; however, the Respondent had informed the Applicant by email dated 18th November 2019 that she had left the Property.

3. Service by advertisement on the Respondent of the CMD notification letter dated 30th January 2020, containing details of the CMD arranged for 27th February 2020, at 10 am in The Credo Centre, 14 – 20 John Street, Aberdeen was carried out on the First-tier Tribunal for Scotland Housing and Property Chamber website between 30th January and 27th February 2020.
4. The Respondent did not make any written representations to the Tribunal.

The Case Management Discussion

5. A CMD was held on 27th February 2020, at 10 am in The Credo Centre, 14 – 20 John Street, Aberdeen. The Applicant was in attendance. The Applicant's husband, Mr Shah Nawaz Ahmed, attended as a Supporter. The Respondent was not present or represented. The Tribunal was satisfied that the requirements of Rule 24(1) has been complied with and notice given of the CMD, and that it was appropriate to continue with the CMD in the absence of the Respondent in terms of Rule 29.
6. The tenancy commenced on 11th May 2019. By email dated 14th September 2019, the Respondent informed the Applicant that she no longer resided in the Property and that her partner continued to reside there. Notice to Leave was served on 18th September 2019. The grounds were that the Respondent no longer occupied the Property and that the Respondent had breached the tenancy agreement by changing locks, painting external windows and doors, modifying the front entry and keeping a pet dog without permission.
7. The Applicant said that the Respondent's former partner was still in the Property. There have been attempts to access the Property using Right to Entry on two occasions but entry has not been allowed. The Applicant has received a letter from a neighbour's solicitor stating that the Respondent's former partner was behaving in an anti-social manner and had damaged the Property. The Applicant has been informed of a police incident at the Property. There has been no further correspondence from the Respondent.
8. The Applicant said that the Respondent did not have her written permission, as required by the tenancy agreement, to sub-let the Property to her former partner. He does not have any legal basis to remain in the Property. There is over £7000 outstanding in rent arrears and the Property is being damaged. She asked that an eviction order be granted.

Findings in Fact

9. (i) The parties entered into a Private Residential Tenancy Agreement on 11th May 2019.
- (ii) On 14th September 2019, the Respondent informed the Applicant that she no longer resided in the Property.

- (iii) The Respondent no longer occupies the Property as her home.
- (iv) No sub-tenancy has been lawfully granted to the Respondent's former partner.
- (v) The Property's not being occupied is not attributable to a breach of the landlord's repairing standard duties under Chapter 4 of Part 1 of the Housing (Scotland) Act 2006.

Reasons for Decision

10. The Respondent is no longer occupying the Property as her home. There is no sub-tenancy in place to allow the Respondent's former partner to occupy the Property. The reason for the Property not being occupied by the Respondent is not due to a breach of the Applicant's repairing standard duties. The Applicant has served a valid Notice to Leave in terms of the Act.

Decision

11. An eviction order is granted in favour of the Applicant in respect of the Property.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Helen Forbes

Legal Member/Chair

Date: 27th February 2020